

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No. 09/837,487
Attorney Docket No. Q64156

REMARKS

Reconsideration and allowance of this application are respectfully requested. New claims 9-13 have been added. Claims 7 and 8 have been canceled. Claims 1-6 and 9-13 are now pending in the application. The rejections are respectfully submitted to be obviated in view of the remarks presented herein.

As a preliminary matter, Applicants bring to attention that Examiner has not indicated consideration of the Information Disclosure Statement filed on April 19, 2001. Applicants respectfully request consideration of the Information Disclosure Statement and the attachment of a copy of the initialed SB-08 form to the next office communication.

In addition, Applicants also request Examiner to consider the non-patent literature submitted in the IDS filed on November 21, 2002, with which Applicants have also previously provided an English-translation of pertinent portions of the corresponding Japanese Office Action dated September 24, 2002, in compliance with 37 C.F.R. § 1.98(a)(3) (see MPEP § 609 III.A.A(3)). Applicants' submission on November 21, 2002 of the IDS and English-translation of pertinent portions of the Japanese Office Action comply with the content requirements for information listed in the IDS, and consideration by the Office of the non-patent literature is again respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-6 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully submit that the claimed subject matter is described in the specification and also clearly shown in the figures. In

particular, Fig. 1 depicts an exemplary embodiment of an electronic audit system including an audit device of which an exemplary embodiment is shown in more detail in Fig. 2. An electronic test object system (system for audit 4), a maintenance management device (system for audit maintenance and management device 5), a configuration transmission device (system for audit configuration transmission device 6), an access device for accessing test object (access establishment section 2.1.1), an audit device (2), and a display device (audit results display device 9) are all relationally shown in the exemplary embodiments of Figs. 1 and 2, and further described in the specification at least on page 6, lines 16-23 and page 7, lines 4-6.

Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, as respectfully requested.

Rejection Under 35 U.S.C. § 103(a) - Jones

Claims 1-6 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jones (U.S. Patent Number 5,832,458). The rejection is respectfully traversed.

Regarding claim 1, Applicants' claimed invention relates to an electronic audit system including an electronic test object system, an electronic audit system and a communication device. The communication device provides a line connection between the audit system and the test object system. The audit system and the test object system connect via the communication device, and the audit system audits the test object system based on necessary information sent from the test object system.

Applicants respectfully submit that the disclosure of Jones does not teach or suggest the claimed invention. Jones discloses a system and method for electronically auditing point-of-sale

transactions such as to provide a precise accounting system for coupon redemption that insures that the coupons have been used only in connection with the specific articles for which they were issued (column 3, lines 31-37). Jones's electronic auditing system is disposed in each retail store for monitoring the point-of-sale system in a substantially totally passive manner and for collecting a copy of each retail sales transaction on the point-of-sale system by using a sensor assembly for detecting the processed retail sales transactions (column 4, lines 18-32). The electronic auditing system does not require any responsive operation by the point-of-sale system and also does not require any modification of the point-of-sale system (column 4, lines 32-37).

However, there is no teaching or suggestion in Jones that "said audit system and said test object system connect via said communications device, and said audit system audits said test object system based on necessary information sent from said test object system," as recited in claim 1. Jones's in-store electronic audit system (40) disposed in each retail store (10) as shown in FIG. 1 collects, processes and stores on a real-time basis retail sales transaction data in a *totally passive or non-invasive manner* with respect to the on-going operations of retail store (10) (column 5, lines 37-42). No active participation of in-store ISP computer (20) is required (column 5, lines 43-45). Periodically, each electronic audit system (40) transmits the retail sales transaction data it has collected through a bidirectional communications network (50) to an audit system central processor (60) for further processing and use by manufacturers and retailers (column 5, lines 47-51). Therefore, *necessary information* is not sent from the test object system, but rather from the audit system (40) itself to the audit system central processor (60) over the communications network (50). Thus, Jones fails to teach or suggest the

communications network (50) providing a line connection between the electronic audit system (40) and the ISP computer (20), because as shown in FIG. 2, the communications network (50) only connects the audit system central processor (60) with the audit system (40) and **does not connect with** the ISP computer (20).

Additionally, Jones also fails to teach or suggest any “audit system [which] audits said test object system based on necessary information sent from said test object system,” as claimed. Because Jones’s electronic audit system (40) collects data in a totally passive and non-invasive manner, Jones does not teach or suggest a test object system which sends necessary information by which an audit system audits the test object system. Each electronic audit system (40) only continuously monitors, detects, interprets, processes and stores data from its retail store under the control of an operating program stored in electronic audit system (40) (column 6, lines 12-22). Each electronic audit system (40) is connected by a sensor assembly (100) to a conventional store data and control loop (170) in a substantially totally passive or non-invasive manner (column 6, lines 35-42). The sensor assembly (100) is disposed adjacent a portion of the store loop (170) to enable the digital signals present in store loop (170) to be detected by the sensor assembly (100) and to be interpreted, locally processed and transmitted by electronic audit system (40) through the communications network (50) to audit system central processor (60) for further processing (column 6, lines 44-52). Because the sensor assembly (100) is substantially totally passive or non-invasive to store loop (170), no information is ever sent from the sensor assembly (100) to store loop (170) (column 7, lines 27-33). Electrical signals present in the store loop (170) and passing between POS scanners/registers (30) and ISP computer (20) are only

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U.S. Application No. 09/837,487
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passively detected by the sensor assembly (100), therefore, necessary information **is not sent** from the ISP computer (20) with which information the electronic audit system (40) audits the ISP computer (20), as claimed.

At least by virtue of the aforementioned differences, Applicants' claim 1 distinguishes over Jones. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

Regarding claim 2, Applicants' claimed invention relates to an electronic audit system including an electronic test object system, an electronic audit system, a maintenance management device, a configuration transmission device, an identification information transmission device, an audit sequence determination device, an access device, an audit device, a display device and a judgement device.

Examiner has failed to particularly point out where these claimed elements are taught or suggested in Jones. Jones discloses a system and method for electronically auditing point-of-sale transactions as discussed above.

Applicants respectfully submit that the disclosure of Jones does not teach or suggest the claimed invention. Specifically, Jones does not teach or suggest any of: a maintenance management device for maintaining and managing the test object system; a configuration transmission device for transmitting configuration information of the test object system to the audit system; an identification information transmission device for transmitting an ID and a password to the audit system; an audit sequence determination device for determining an audit sequence and creating a sequence chart showing the audit sequence; an access device for

accessing the test object system using an ID and a password received via the identification information transmission device; an audit device for auditing the test object system accessed via the access device in accordance with the sequence chart and recording results; a display device for displaying audit results obtained by audit with the audit device; and a judgement device for judging quality of audit results based on the audit results displayed by the display device, as recited in claim 2.

At least by virtue of the aforementioned differences, Applicants' claim 2 distinguishes over Jones. Applicants' claims 3-6 are dependent claims including all of the elements of independent claim 2, which, as established above, distinguishes over Jones. Therefore, claims 3-6 are patentable over Jones for at least the aforementioned reasons as well as for their additionally recited features.

Newly Added Claims

Applicants have added new claims 9-13 to provide more varied protection for the present invention¹. Claims 9 and 10 are allowable based on at least their dependencies, as well as for their additionally recited features. That is, the cited references do not teach or suggest that the "necessary information comprises configuration information of said electronic test object system," as recited by claim 9, or that the "necessary information comprises an audit ID, a password and configuration information of said electronic test object system," as recited by claim 10. Claims 11-13 are allowable for analogous reasons as discussed above.

¹ Support for these claims is found in the specification on at least page 1, lines 8-11, page 13, lines 2-6, and page 16, lines 13-20.

AMENDMENT UNDER 37 C.F.R. § 1.111
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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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